



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/484,786 06/07/95 MACH B MACH-2-CONT.

18M2/0426

REES EXAMINER

JAMES F HALEY JR  
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ART UNIT PAPER NUMBER

1807

DATE MAILED:

04/26/96

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/484,786</b>	Applicant(s) <b>MACH ET AL.</b>
	Examiner <b>Dianne Rees</b>	Group Art Unit <b>1807</b>
		

Responsive to communication(s) filed on 8/31/95, 9/1/95

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-22 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1-22 are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

*Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-10, and 14-20, drawn to a DNA sequence, HLA typing process, HLA typing kit comprising a DNA sequence, process for producing a DNA sequence, and for producing a protein expressed by said sequence, classified in Class 435, subclass 6, for example.

Group II. Claims 11-13, 21-22 drawn to polypeptides displaying an immunological or biological activity of at least one Beta chain antigen, and HLA-DR typing kits which include polypeptides raised against those polypeptide classified in Class 530, subclass 388.75, for example.

The inventions are distinct, each from the other because of the following reasons:

2. The products of Inventions I and II are disclosed as different combinations which are not connected in design, operation or effect. These combinations are independent if it can be shown that (1) they are not disclosed as capable of use together, (2) they have different modes of operation, (3) they have different functions, or (4) they have different effects. (MPEP 806.04, MPEP 808.01). In the instant case the nucleic acids of invention I differ from the proteins and antibodies of invention II in physical and biochemical properties, means of isolation and use. The nucleic acids of invention I, may be used as sources of recombinant proteins but may also be used in hybridization assays, gene therapies and antisense therapies. The proteins of Invention II may be used as immunogens to generate antibodies and may also be used in protein therapies.

3. The method of expressing a protein of Inventions I and the proteins of invention II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case, the protein products of invention II may be isolated from cellular sources as well as from recombinant nucleic acids.I. Because these inventions are distinct for the reasons given above

and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Margaret Pierre on April 17, 1996 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least

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one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

7. Papers related to this application may be submitted to Group 1800 by facsimile transmission via the P.T.O. Fax Center located in Crystal Mall 1. The CM1 Fax Center number is (703) 305-7401. Please note that the faxing of such papers must conform with the notice to Comply published in the Official Gazette, 1096 OG 30 (Nov 15, 1989).

An inquiry regarding this communication should be directed to examiner Dianne Rees, Ph.D., whose telephone number is (703) 308-6565. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached on (703) 308-1156.

Calls of a general nature may be directed to the Group receptionist who may be reached at (703) 308-0196.

*Dianne Rees*  
Dianne Rees

April 17, 1996

*W. Gary Jones*  
W. GARY JONES  
SUPERVISORY PATENT EXAMINER  
GROUP 1800

*4/21/96*